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May 29, 2007

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
Portals II, Filing Counter TW-A325
445 12th Street, SW
Washington, DC 20554

Re: *Ex Parte* Comments in MB Docket No. 87-268

Dear Ms. Dortch:

On April 19, 2007, the undersigned (in person) and Roy P. Stype, III of Carl E. Smith Engineers (telephonically) met with members of the Media Bureau staff, at the request of the staff, to discuss the comments filed by Christian Faith Broadcast, Inc. ("CFB") in MB Docket No. 87-268. The parties discussed a discrepancy in the engineering between the engineering statement filed by CFB and the engineering run conducted by the staff.¹ The parties also discussed the comments filed by CFB in the instant Docket; however, no arguments were made that were not already reflected in CFB's previously filed comments. An *ex parte* notice was filed following that meeting.

At that meeting, the staff requested that CFB review its engineering showing and detail the harm that WLLA-DT would suffer if it were forced to reduce post-transition operations so that it caused less than 0.1% interference. As detailed in the attached Engineering Statement prepared by Roy P. Stype, III of Carl E. Smith Consulting Engineers, WLLA-DT would have to operate at a mere 75 kilowatts (down from 420 kW post-transition) to cause less than 0.1% interference to WZPX-DT and WDIV-DT (the predicted interference to WDIV-DT remains unchanged from those filed in the comments). This would result in a loss of service to 289,391

¹ In its previously filed comments, the predicted interference to WZPX-DT with WLLA-DT operating post-transition at 420 kW (which WLLA-DT committed to in its previously filed comments) was shown as 0.07%. As explained in the attached Engineering Statement, the predicted interference to WZPX-DT is now predicted to be 1.79%, below the applicable 2.0% interference standard operating at 420 kW, due to the substitution of a different base-line directional pattern in the FCC database.

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people – 16.8% of the population and a loss of 4858.3 square kilometers, representing 25% of the interference free noise limited service land area. Such a loss is clearly not in the public interest.

By way of background, WLLA-DT was granted a permit to operate at 440 kW on January 10, 2006 (File No. BPCDT-19991108AAD). In granting the permit, the staff properly found that CFB's proposed facilities met the applicable 2.0% interference standard contained in 73.623(c)(2) of the rules. Following the grant of the WLLA-DT construction permit, on March 3, 2006, the staff granted CFB a waiver to allow the construction of authorized maximized facilities ("Waiver")². CFB has constructed WLLA-DT in compliance with the permit and reliance on the subsequent Waiver.³ The Seventh Further Notice of Proposed Rulemaking in the Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service ("SFNPRM") noted that nine stations filed requests to accept late filed certifications.⁴ CFB filed comments in response to the SFNPRM in part because the SFNPRM did not reflect that CFB's request to accept the late-filed FCC Form 381 was granted and Appendix B to the SFNPRM did not properly reflect the post-transition facilities for either of CFB's stations – WLLA-DT and WGGN-DT.⁵

In the meeting on April 19, 2007, all the parties in the room agreed that had CFB timely filed its FCC Form 381, there would be no discussion as to the post-transition facilities for either WLLA-DT or WGGN-DT. In other words, there would be no question that WLLA-DT and WGGN-DT could operate its maximized digital facilities post-transition. It is CFB's position, as reflected in its comments, and reiterated here, that the Waiver did just that – placed CFB in the position as if it had timely filed its FCC Forms 381.

Even if the Commission determines that the 2.0% interference standard does not apply, the Commission stated in the SFNPRM that it proposed "to grant waivers of the 0.1 percent limit where doing so would promote our overall spectrum efficiency objectives and ensure the best possible service to the public, including service to local communities."⁶ CFB surely meets that waiver standard. CFB is an independent religious broadcaster and a wholly-owned subsidiary of a non-profit organization. The maximized digital operations benefit the public interest by ensuring that WLLA-DT can fully serve the Grand Rapids-Kalamazoo-Battle Creek DMA and WGGN-DT can fully serve the Cleveland-Akron DMA, promoting diversity of service and competition in the stations' DMA's. This meets the Commission's objective of ensuring the best possible service. Operation with facilities less than the maximized facilities would ensure that more than 600,000⁷ viewers would not receive CFB programming. Such a result cannot be in the public interest. Accordingly, CFB respectfully requests, that the post-transition DTV

² Letter from Barbara A. Kreisman, Chief, Video Division to Christian Faith Broadcast, Inc., DA 06-519 (rel. March 3, 2006 (the "Waiver")).

³ See BLCDDT-20070529AEA.

⁴ *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, Seventh Further Notice of Proposed Rulemaking, 21 FCC Rcd 12100 (2006) at note 60.

⁵ Comments of Christian Faith Broadcast, Inc. in MB Docket No. 87-268 filed January 25, 2007.

⁶ SFNPRM, 21 FCC Rcd at 12109.

⁷ 289,391 lost to WLLA-DT and 311,600 lost to WGGN-DT if operating with replication facilities.

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Table of Allotments be revised to conform to the digital construction permits issued to CFB for WLLA-DT and WGGN-DT.

Please direct any questions regarding this matter to the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph M. Di Scipio". The signature is fluid and cursive, with a long horizontal stroke at the end.

Joseph M. Di Scipio
Counsel to Christian Faith Broadcast, Inc.

ENGINEERING STATEMENT IN
SUPPORT OF EX PARTE COMMENTS

MB DOCKET 87-268

WLLA-DT - KALAMAZOO, MI

Christian Faith Broadcast, Inc.
Kalamazoo, MI

May 25, 2007

Prepared for: Mr. Clyde R. Yost, Jr.
Christian Faith Broadcast, Inc.
3809 Maple Avenue
Castalia, OH 44824

CARL E. SMITH CONSULTING ENGINEERS

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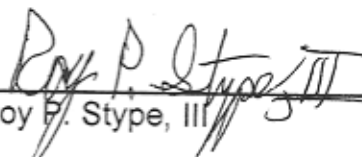
Fig. 1.0 - WLLA-DT Noise Limited Contours

ENGINEERING AFFIDAVIT

State of Ohio)
) ss:
County of Summit)


Roy P. Stype, III, being duly sworn, deposes and states that he is a graduate Electrical Engineer, a qualified and experienced Communications Consulting Engineer whose works are a matter of record with the Federal Communications Commission and that he is a member of the Firm of "Carl E. Smith Consulting Engineers" located at 2324 North Cleveland-Massillon Road in the Township of Bath, County of Summit, State of Ohio, and that the Firm has been retained by Christian Faith Broadcast, Inc. to prepare the attached "Engineering Statement In Support of Ex Parte Comments - MB Docket 87-268 - WLLA-DT - Kalamazoo, MI."

The deponent states that the Exhibit was prepared by him or under his direction and is true of his own knowledge, except as to statements made on information and belief and as to such statements, he believes them to be true.



Roy P. Stype, III

Subscribed and sworn to before me on **May 25, 2007**.



Notary Public

/SEAL/

NANCY A. ADAMS, Notary Public
Residence - Cuyahoga County
State Wide Jurisdiction, Ohio
My Commission Expires Sept. 20, 2010

ENGINEERING STATEMENT

This engineering statement is prepared on behalf of Christian Faith Broadcast, Inc., licensee of WLLA-TV - Kalamazoo, MI and permittee of paired DTV station WLLA-DT. It supports ex parte comments in response to the *Seventh Further Notice of Proposed Rulemaking* ("FNPRM") in MB Docket 87-268.

WLLA-DT is presently operating under automatic program test authority, pursuant to the provisions of Section 73.1620 of the FCC Rules, with the facilities authorized by construction permit BPCDT-19991108AAD, which authorizes maximized operation on Channel 45 with a maximum effective radiated power of 440 kilowatts, using a directional antenna, at 330.8 meters above average terrain. Although WLLA-DT inadvertently failed to timely file a pre-election certification on FCC Form 381 specifying the maximized facilities authorized by this construction permit, the Commission did grant WLLA-DT's Petition to Accept Late Filed FCC Form 381.

When compared to the replication facilities associated with WLLA-DT's DTV allotment, the 440 kilowatt facilities authorized by the WLLA-DT construction permit are predicted to cause new interference to 0.79% of the post-transition baseline population for WDIV-DT - Detroit, Michigan and 2.08% of the post-transition baseline population for WZPX-DT - Battle Creek, Michigan.¹ Reducing the effective radiated power for the WLLA-DT construction permit facilities from 440 kilowatts to 420 kilowatts, while mak-

¹These calculated levels of new interference differ slightly from the values specified in the original WLLA-DT comments in this proceeding. This is because, subsequent to the filing of the original WLLA-DT comments, it was determined that the directional pattern which was originally associated with the WLLA-DT DTV allotment in the *Sixth Report and Order* in this proceeding was incorrect and that, with no public notice, a corrected pattern had been substituted for the pattern originally associated with the WLLA-DT DTV allotment. This correction resulted in a minor change in the baseline interference calculations to other stations which receive interference from WLLA-DT, which resulted in a change in all of the interference calculations to other stations for WLLA-DT.

ing no other changes in the operating facilities authorized by this construction permit, would reduce the predicted new interference to WDIV-DT to 0.76% and the predicted new interference to WZPX-DT to 1.79%, which would both comply with the 2% de minimis interference standard under which this construction permit was granted.²

In order to determine the impact of forcing WLLA-DT to operate with post-transition facilities pursuant to the 0.1% interference standard, detailed interference studies were conducted utilizing the methodology outlined in OET Bulletin 69.³ These studies determined that it would be necessary to reduce the maximum effective radiated power for WLLA-DT from the presently authorized value of 440 kilowatts to 75 kilowatts, while also rotating the authorized directional pattern counterclockwise by ten degrees⁴ to reduce the predicted new interference to WDIV-DT to 0.11% and the predicted new interference to WZPX-DT to 0.14%, both of which, when rounded to the nearest 0.1%, would comply with the 0.1% "no new interference" standard being utilized to evaluate interference during the DTV channel election process.

Figure 1.0 is a map exhibit depicting the predicted noise limited contour for these reduced power 75 kilowatt operating facilities in relation to the predicted noise limited contour for the 440 kilowatt facilities authorized by the WLLA-DT construction permit. This map exhibit also includes detailed population and area data for the predicted inter-

²Such a power reduction would have virtually no impact on the area and population to which WLLA-DT would provide noise limited DTV service.

³These OET 69 interference studies were based on 2000 U. S. Census data and assumed that all analog operation had ceased and that all stations were operating digitally with the post-transition facilities proposed in the *Seventh Further Notice of Proposed Rulemaking* in this proceeding.

⁴This would result in the main lobe of this directional pattern being oriented at an azimuth of 30° True.

ference free noise limited service which would be provided by both of these sets of DTV operating facilities.⁵ As shown by this data, this reduction in the post-transition facilities for WLLA-DT would result in a loss of interference free noise limited service to 289,391 persons, or 16.8% of the population which is predicted to receive interference free noise limited service from the facilities authorized by the WLLA-DT construction permit. The data included in this map exhibit also shows that this power reduction would also result in a 25.7% reduction in the land area predicted to receive interference free noise limited service from WLLA-DT.

⁵These area and population values are based on the 2000 U. S. Census and were determined using the methodology outlined in OET Bulletin 69.

